

Public off-street parking. The Service will not follow the Monterey Public Parking Corporation decision that an organization formed by merchants to establish and operate a public off-street parking facility that provides free or reduced-rate parking for the merchants' customers through a validation stamp system qualifies for exemption as either a charitable corporation under section 501(c)(3) of the Code or a social welfare organization under section 501(c)(4).

The Internal Revenue Service will not follow the Ninth Circuit's decision entered in *Monterey Public Parking Corporation v. United States*, 481 F.2d 175 (9th Cir. 1973), affirming the decision of the District Court for the Northern District of California, 321 F.Supp. 972 (N.D. Cal. 1970), that the Monterey Public Parking Corporation qualified for exemption from Federal income tax as either a charitable corporation under section 501(c)(3) of the Internal Revenue Code of 1954 or a social welfare organization under section 501(c)(4).

The Corporation was formed by a group of local merchants to establish and operate a public off-street parking facility in order to alleviate a lack of parking space in the central business district of Monterey. Anyone could park a car at this facility for 25¢ per hour. However, in order to provide their customers with free parking while they shopped, the participating merchants set up a validation stamp system. Under this system, customers could present their parking vouchers to participating merchants and obtain parking stamps instead of paying cash for parking. The stamps were sold to merchants in books of 100 at \$18 per book. Since each stamp permitted one hour of parking, merchants were in effect paying 18¢ for each hour of free parking they extended to their customers.

The names of participating merchants were advertised by printing them on parking vouchers and on signs at the parking facility. Most of the Corporation's income was derived from the sale of parking stamps to participating merchants.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for purposes specified in section 501(c)(3) of the Code unless it serves a public rather than a private interest. To meet this requirement, an organization must establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or the creator's family, shareholders of the organizations, or

persons controlled, directly or indirectly, by such private interests.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1 of the regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

A parking arrangement whereby merchants join together to provide parking for their customers at a reduced rate serves the merchants' private interests by encouraging the public to patronize their stores. Rather than providing their own parking, merchants are able to join together to provide a common parking facility in which all share the benefits.

Thus, although there may well be some public benefit derived from the construction and operation of the parking lot, it cannot be said to be operated exclusively for charitable purposes under section 501(c)(3) of the Code or primarily for social welfare purposes under section 501(c)(4). Further, providing parking in a manner similar to that in Monterey is carrying on a business with the general public in a manner similar to organizations that are operated for profit. Such trade or business does not further exempt purposes under either section 501(c)(3) or (4).

See Rev. Rul. 77-111, 1977-1 C.B. 144, which denies exemption under section 501(c)(3) of the Code to two organizations formed to increase business patronage in economically deteriorated areas, one by disseminating information concerning the area's accommodations, shopping, and transportation facilities and the other by constructing a shopping center in the area to compete with outlying shopping centers.

See also Rev. Rul. 64-108, 1964-1 (Part I) C.B. 189, which holds that an organization whose primary activity is the operation of a parking stamp plan does not qualify under section 501(c)(6) of the Code as a business league.